

REMARKS

The Advisory Action in the above-identified application has been carefully considered and this preliminary amendment has been presented to place this application in condition for allowance. Accordingly, reexamination and reconsideration of this application are respectfully requested.

Claims 1–10 are in the present application. It is submitted that these claims were patentably distinct over the prior art cited by the Examiner, and that these claims were in full compliance with the requirements of 35 U.S.C. § 112. Changes to the claims, as presented herein, are not made for the purpose of patentability within the meaning of 35 U.S.C. sections 101, 102, 103 or 112. Rather, these changes are made simply for clarification and to round out the scope of protection to which Applicant is entitled.

Claims 1–10 were rejected under 35 U.S.C. § 103(a) as being anticipated by Hashimoto (U.S. Patent 6,335,909) in view of “Applicant’s admitted prior art.” In response to the Examiner’s comments provided in the Advisory Action, Applicant has amended the claims to clarify those claim limitations directed to the distinguishing features of the invention.

Specifically, the claims have been amended to recite: “wherein said light beam is focused on said signal recording surface by driving said two-focus lens in a down-search in such a manner that S-shaped fake signals do not occur before S-shaped true signals.” (Claims 1 and 6) This limitation is found in the Specification at page 9, lines 8-10. The Examiner relies on the statements made in the background section of Applicant’s application as admitted prior art to meet the S-shaped fake signals limitation. (Office Action) However, the above amended

limitation is not recited in the background section of the specification. Further, performing “a down-search in such a manner that S-shaped fake signals do not occur before S-shaped true signals” defines how the invention is distinguishable from the prior art in accordance with 37 CFR 1.111(b). Accordingly, this limitation cannot be deemed as admitted prior art.

Moreover, the claims have been amended to recite “said two-focus lens being an objective lens having focuses at two positions.” (Claims 1 and 6) This limitation is taken directly from page 1 of the Specification. Hence, the present invention is directed to a system which uses an objective lens designed to have two focuses. By contrast, a typical objective lens has a single focus at one position, but can be moved to focus at different points. Thus, the present invention defines “a two-focus lens” as being different than a normal objective lens being moved to focus at two points.

The Examiner contends Hashimoto discloses “an optical pickup for irradiating a light beam through ‘a two-focus lens’ (see col. 3, lines 19-29; for use in multi-layer disks, hence two or more focus)” (Office Action) However at the cited location, Hashimoto simply discloses “an objective lens,” “a focus motor for driving the objective lens,” and “the focusing servo circuit 3 and tracking servo circuit 5 are conventional ones.” (Column 3, lines 21-27) Hashimoto does not indicate that this objective lens is “a two-focus lens.” Since a single focus objective lens can be readily used to focus at different depths for multi-layer disks, the Examiner’s apparent assertion that a two-focus lens is implied by the application to a multi-layer disk is unfounded. Hence, Hashimoto fails to meet the present invention’s “two-focus lens being an objective lens having focuses at two position” limitation.

Accordingly, for at least these reasons, Hashimoto in combination with Applicant's admitted prior art fails to obviate the present invention and the rejected claims should now be allowed.

In view of the foregoing amendment and remarks, it is respectfully submitted that the application as now presented is in condition for allowance. Early and favorable reconsideration of the application are respectfully requested.

No additional fees are deemed to be required for the filing of this amendment, but if such are, the Examiner is hereby authorized to charge any insufficient fees or credit any overpayment associated with the above-identified application to Deposit Account No. 50-0320.

If any issues remain, or if the Examiner has any further suggestions, he/she is invited to call the undersigned at the telephone number provided below. The Examiner's consideration of this matter is gratefully acknowledged.

Respectfully submitted,
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